

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Kemal GULER et al.	§	Confirmation No.:	5813
		§		
Serial No.:	10/726,432	§	Group Art Unit:	3625
		§		
Filed:	12/03/2003	§	Examiner:	J.B. Dunham
		§		
For:	Method And System For	§	Docket No.:	200313474-1
	Predicting Outcome of an	§		
	Online Auction	§		

REPLY BRIEF

Mail Stop Appeal Brief – Patents

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: June 25, 2008

Sir:

In response to the Examiner's Answer dated June 2, 2008, Appellants submit this Reply Brief.

I. RESPONSE TO ARGUMENTS OF THE EXAMINER'S ANSWER

With respect to the arguments regarding representative claim 1, the question to ultimately be answered is whether Guler teaches "predicting, by a software program executing on the computer system, an auction outcome **for each of a plurality of potential feedback rules** for **the** online auction type" in combination with the other elements. As discussed in the Appeal Brief, Guler is expressly directed to evaluating "unknown or unobservable elements" in selection of the auction type, not the type of feedback to be used with any particular auction type.

In an attempt to overcome the stark differences between the claims at issue and Guler, the Answer attempts to rely on reserve price and bid increments as feedback rules.¹ Even if hypothetically assumed that the reserve price and bid increments are “feedback rules” (which Appellants do not admit), Guler still fails to expressly or inherently teach “predicting ... an auction outcome for each of a plurality of potential feedback rules for **the online auction type**.” For example, the Answer fails to cite any portion of Guler that expressly or inherently teaches an analysis of different bid increments for a single auction type (e.g., Dutch auction). The location cited by the Answer, Guler Paragraph [0006]², merely lists aspects of an auction, and fails to teach or even imply an analysis of how bid increments may affect a particular auction type.

With respect to the arguments regarding representative claim 5, the question to be answered is whether Guler teaches “calculating a statistical distribution of possible outcomes for each of the plurality of potential feedback rules [for a particular auction]” in combination with the other limitations. The Answer points to Guler’s probability distribution of a bidder’s willingness to pay regarding the “statistical distribution of possible **outcomes**,” citing Guler’s paragraph [0038]. Even a cursory reading of Guler reveals the probability distribution of a bidder’s willingness to pay is part of the unknown or unobservable elements. In other words, the probability distribution of Guler is an input set to the Guler determination, not a result, and certainly not “a statistical distribution of possible outcomes” calculated one each for “each of the plurality of feedback rules.”

¹ By a lack of addressing such in the Answer, the Answer apparently concedes that “elements of a market structure” are not feedback rules as previously asserted.

² In Guler’s Background, and thus the applicability to the Guler method is highly questionable at best.

II. CONCLUSION

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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